



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 11 2016

CERTIFIED MAIL 7011 3500 0003 2064 3438
RETURN RECEIPT REQUESTED

Mr. Roger Lemasters, P.E.
Director, Springfield Water/Wastewater Department
City of Springfield
824 Central Avenue
Springfield, Tennessee 37172

Re: Notice of Violation and Program Deficiencies
National Pollutant Discharge Elimination System Permit No.:TN0024961

Dear Mr. Lemasters:

The U.S. Environmental Protection Agency Region 4 has been advised by the State of Tennessee Department of Environment and Conservation (TDEC) that the City of Springfield (the City) has failed to fully comply with its National Pollutant Discharge Elimination System (NPDES) No.: TN0024961 (Permit). Based on the EPA's review of the information submitted by TDEC the EPA has determined that the City has violated Sections 301 and 307(d) of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1317(d); the regulations promulgated thereunder at 40 C.F.R. Parts 403 and 402(b), and the Permit. Specifically, the EPA hereby notifies the City, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following findings of violations:

1. Section 3.2(a) of the Permit requires the City to carry out inspection, surveillance, and monitoring procedures which will determine independent of information supplied by the industrial user (IU), whether the IU is in compliance with pretreatment standards. The City has failed to carry out inspection, surveillance, and monitoring procedures when pollutants with the potential to create a fire or hazard were introduced into the City's Publicly Owned Treatment Works (POTW).
2. Section 3.2(a) of the Permit requires that the City obtain appropriate remedies for noncompliance by an industrial user (IU) with any pretreatment standard and/or requirement. The City has failed to take any enforcement action or seek any remedy for discharges to the City's POTW from the Hollingsworth Oil Company. These discharges occurred on several occasions from the Hollingsworth facility.
3. Section 3.2(b) of the Permit requires that the City shall enforce 40 C.F.R. § 403.5 for prohibited discharges which create a fire or explosion hazard being introduced into a POTW. There have been several releases of pollutants which create a fire or explosion hazard into the City's POTW and the City has failed to stop the releases or to take any enforcement action.

In an effort to resolve these violations expeditiously, the EPA has enclosed an Administrative Order on Consent with the corrective actions required to ensure timely compliance with the Permit. If the City agrees with the terms of this AOC, please sign and return it within 10 days of receipt to the following address:

U.S. Environmental Protection Agency, Region 4
NPDES Permitting and Enforcement Branch
Water Protection Division
ATTN: Ms. Alenda Johnson
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Failure to adequately respond within the time frame specified above may result in an EPA enforcement action pursuant to federal law, including, but not limited to Section 309 of the Clean Water Act, 33 U.S.C. § 1319.

The AOC will become effective upon the date you receive a copy of the document signed by the Director of the Water Protection Division. If the City has any comments or questions regarding this matter, please contact Ms. Wilda Cobb, Associate Regional Counsel at (404) 562-9530, or Ms. Alenda Johnson, Acting Chief, Municipal & Industrial Enforcement Section at (404) 562-9761.

Sincerely,



James D. Giattina
Director
Water Protection Division

cc: Ms. Tisha Calabrese Benton
Tennessee Department of Environment and Conservation

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:) ADMINISTRATIVE
) ORDER ON CONSENT
)
THE CITY OF SPRINGFIELD,)
TENNESSEE) DOCKET NO. CWA-04-2016-4773
)
PROCEEDING UNDER SECTION)
309(a) OF THE CLEAN WATER ACT,)
33 U.S.C. § 1319(a))
NPDES PERMIT NO. TN0024961)

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

I. STATUTORY AUTHORITY

1. Section 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a), provides that, whenever the U.S. Environmental Protection Agency, Region 4 ("EPA") finds that any person is in violation of any condition or limitation which implements, *inter alia*, Sections 301, 307 and 402 of the CWA, 33 U.S.C. §§ 1311, 1317 and 1342, the EPA may issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that the EPA determines to be reasonable.

2. The following Findings and Determinations of Law are made and Administrative Order on Consent (AOC) issued pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA), by 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a), as amended. This authority has been delegated by the Administrator to the Regional Administrator of the EPA, Region 4, and further delegated by the Regional Administrator to the Director of the Water Protection Division, EPA, Region 4.

II. FINDINGS OF FACTS AND DETERMINATIONS OF LAW

3. To accomplish the objective of the CWA, as defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical, and biological integrity of the nation's waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the point source discharge of pollutants into navigable waters except as in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

4. Section 402 of the CWA, 33 U.S.C. § 1342, establishes an NPDES Permit Program authorizing the EPA or authorized states to administer the NPDES Permit Program, including the issuance of NPDES permits allowing for the discharge of pollutants into navigable waters subject to specific terms and conditions.

5. The EPA has granted approval to the State of Tennessee (State), through the Department of Environment and Conservation (TDEC), to issue NPDES permits pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

6. TDEC was also granted authority to administer the Pretreatment Program in the State, pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), the implementing regulations, and a Memorandum of Agreement with the EPA dated October 12, 2007.

7. The City of Springfield, Tennessee ("Respondent") is a municipality and is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

8. At all times relevant to this action the Respondent owned and operated a publicly owned treatment works (POTW) including a Wastewater Treatment Plant (WWTP) that connects to the Springfield Sewage Treatment Plant (STP) located at 530 Lawrence Lane, Springfield, Robertson County, Tennessee. The POTW discharges "pollutants" from a point source into Sulphur Fork Creek, a navigable water, as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

9. TDEC, under the authority of Section 402(b) of the CWA 33.U.S.C. 1342(B) issued the Respondent NPDES Permit Number TN0024961 (Permit) with an effective date of May 1, 2010 and an expiration date of December 31, 2014. The Permit has been administratively continued. The Permit authorizes the discharge of treated wastewater from the Respondent's STP into Sulphur Fork Creek.

10. The Respondent has a pretreatment program approved by TDEC pursuant to 40 C.F.R. § 403.9. The pretreatment program is covered by its Permit TN00024961.

11. The Permit provides that the Respondent shall implement and enforce the industrial pretreatment program in accordance with Section 402(b)(8) of the CWA, 33 U.S.C. § 1342(b)(8), the federal pretreatment regulations in 40 C.F.R. Part 403 and the Permit.

12. The Permit provides that the Respondent shall implement and enforce the industrial pretreatment program in accordance with Section 402(b)(8) of the CWA, 33 U.S.C. § 1342(b)(8), the federal pretreatment regulations in 40 C.F.R. Part 403 and the Permit.

13. Section 3.2(a) of the Permit requires the Respondent to conduct the following provisions in implementing the Pretreatment Program:

- a. Carry out inspection, surveillance, and monitoring procedures which will determine independent of information supplied by the industrial user (IU), whether the IU is in compliance with pretreatment standards;
- b. Develop as necessary, compliance schedules for each IU for the installation of control technologies to meet applicable pretreatment standards

- c. Require all IUs to comply with all applicable monitoring and reporting requirements outlined in the approved pretreatment program and IU permit;
- d. Maintain and update, as necessary, records identifying the nature and character of IU discharges, and;
- e. Obtain appropriate remedies for noncompliance by an IU with any pretreatment standard and/or requirement.

14. Section 3.2(b) of the Permit provides that the permittee shall enforce 40 C.F.R. § 403.5, prohibited discharges. 40 C.F.R. § 403.5(b)(1) prohibits pollutants which create a fire or explosion hazard from being introduced into a POTW.

15. A memorandum dated June 29, 2010 from the Respondent's files documents "a release of 4,000 gallons of gasoline being released into the City's sewer system." The memorandum noted that on other occasions there had been releases of gasoline from the Industrial User (IU) Hollingsworth. Respondent failed to take any enforcement action against the IU for the releases in violation of Section 3.2(a)(5) of the Permit.

16. On February 6, 2013, TDEC notified Respondent of its failure to comply with the terms of its Permit. The notification required Respondent to submit a complete and updated sewer use ordinance and enforcement response plan.

17. On February 25, 2014, TDEC issued a Director's Order to Respondent for its failure to submit the required Pretreatment Program modifications identified in the February 6, 2013 notification.

18. On August 5, 2014, there was a discharge of a petroleum product into the Respondent's sewer system. The lower explosive limits (LEL) indicated that there was a significant risk and the Springfield Fire Department was called and abated the dangerous situation.

19. On September 15, 2014, the EPA Region 4 conducted a pretreatment compliance inspection (PCI) of the Respondent's WWPT and IU Hollingsworth Oil Company (HOC). Samples were taken within and outside the HOC facility. Samples showed elevated concentrations of total petroleum hydrocarbons.

20. On February 4, 2016, when the Respondent was conducting a routine check of the sewer system a flammable petroleum liquid was discovered in the Respondent's sewer system. Again the LEL levels indicated that there was a significant risk and the Springfield Fire Department was asked to respond to the dangerous situation. This is a violation of Section 3.2 of the Permit and of 40 C.F.R. § 403.5(b)(1).

21. The following determinations were based on the EPA Region 4's PCI, a review of documents and information provided by TDEC and additional information gathered by the EPA:

- a. Respondent failed to carry out inspection, surveillance, and monitoring procedures to determine whether the IU Hollingsworth was in compliance with pretreatment standards; in violation of 40 CFR 403.8(b) and 403.9(f) and Section 3.2(a) of the Permit;
- b. Respondent failed to carry out inspection, surveillance, and monitoring procedures to determine whether the IU Hollingsworth was in compliance in violation of Section 3.2 (a) of the Permit;
- c. Respondent failed to obtain appropriate remedies for an IU not meeting pretreatment standards and has not taken proper enforcement against IU Hollingsworth Oil after unpermitted discharges of gasoline were discharged into the POTW in violation of 40 CFR and Part 3.2 of the Permit; and
- d. Respondent failed to prohibit the introduction of pollutants which create a fire or hazard into the POTW, in violation of Section 3.2(b)(i) of Permit and 40 C.F.R. § 403.5(b)(1).

22. In states authorized to implement their own pretreatment programs, the EPA retains authority concurrent with the authorized state pretreatment program to enforce state-issued permits, pursuant to 33 U.S.C. §§ 1319(a)(3) and 1342(i).

23. Based on the above, the EPA finds that the Respondent is in violation of Sections 301(a), 307 and 402 of the CWA, 33 U.S.C. §§ 1311(a), 1317, and 1342, by failing to comply with the applicable pretreatment standards in 40 C.F.R. Part 403 and the Permit.

III. AGREEMENT ON CONSENT

Based on the foregoing Findings of Fact and Determinations of Law and pursuant to the authority of Sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), THE DIRECTOR HEREBY ORDERS AND RESPONDENT HEREBY AGREES AND CONSENTS TO THE PROVISIONS OF THE PARAGRAPHS BELOW:

24. Within thirty (30) days of the effective date of this Order on Consent, the Respondent shall develop and submit to the EPA for review and approval an updated Sewer Use Ordinance (SUO) and an Enforcement Response Plan (ERP) in accordance with the terms outlined in the TDEC letter dated February 6, 2013, and follow-up comments similarly provided on October 31, 2014. Upon review of each document, the EPA may: (1) fully approve the document in writing; or (2) provide written comments to the Respondent identifying any deficiencies.

25. If the EPA provides comments on the SUO or ERP the Respondent shall, within thirty (30) days of the date the Respondent receives the comments, modify the document accordingly and submit the revision to the EPA for final review and approval. If the EPA

determines that minor technical deficiencies remain, then the EPA reserves the right to require an additional revision and resubmission.

26. Upon approval of the SUO and ERP the EPA will provide the documents to TDEC for TDEC for public notice and other procedures that are necessary for substantial program modifications, pursuant to the process in 40 C.F.R. § 403.18(c). The Respondent shall implement the newly approved SUO and ERP immediately upon receipt of a substantial program modification approval by TDEC pursuant to this process.

IV. DOCUMENTATION AND REPORT SUBMITTAL

27. All reports, notifications, documentation, and submittals required by this AOC shall be signed by a duly authorized representative of the Respondent as specified by 40 C.F.R. §§ 122.22(b)(2) and (d) and shall include the following statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

28. All reports, notifications, documentation and submittals and other correspondence required to be submitted by this AOC shall be sent by registered mail, certified mail (return receipt requested), or deposited with an overnight mail service, to the following addressees, as appropriate:

Denisse D. Diaz, Chief
NPDES Permitting & Enforcement Branch
Water Protection Division
ATTN: Alenda Johnson
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And

Ms. Jessica Murphy, Manager
Compliance and Enforcement Section
Division of Water Resources
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243

29. Notifications to, or communications with, EPA and TDEC by the Respondent shall be deemed submitted on the date they are postmarked and sent by registered mail, certified mail (return receipt requested), or deposited with an overnight mail/delivery service. Notifications to, or communications with, the Respondent by EPA shall be deemed received three (3) days after the date they are postmarked and sent by registered mail, certified mail (return receipt requested), or deposited with an overnight mail/delivery service.

30. When circumstances are occurring, or have occurred, which may delay the completion of any requirement of this AOC, whether or not arising from causes beyond the control of the Respondent, including, but not limited to, its consultants and contractors, despite the Respondent's best efforts to fulfill the requirement, the Respondent shall so notify EPA, in writing, within fifteen (15) days after the Respondent learns, or in the exercise of reasonable diligence under the circumstances should have learned, of the delay or anticipated delay. The notice shall describe in detail the basis for the Respondent's contention that it experienced a delay, the anticipated length of the delay, the precise cause or causes of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented. Failure to so notify EPA shall constitute a waiver by the Respondent of any claim for delay under this paragraph as to the event in question. If the EPA finds that a delay in performance is or was from causes beyond the control of the Respondent, the EPA may extend the time for performance, in writing, for a period to compensate for the delay resulting from such causes.

V. FINAL REPORT AND TERMINATION OF THIS ORDER

31. Within ninety (90) days after the Respondent has satisfied the terms of this AOC by successfully completing all requirements in this AOC as set forth and establishing and successfully implementing for a period of six (6) months all the requirements set forth in Paragraphs 36-38, the Respondent shall submit for the EPA's review and approval a final report (Final Report) that includes: (a) a description of all of the actions which have been taken toward achieving compliance with this AOC; (b) an assessment of the effectiveness of such actions in eliminating effluent violations; and (c) an analysis of whether additional actions beyond the scope of this AOC are necessary to further eliminate effluent violations.

32. If the EPA determines, after review of the Final Report, that all the requirements of this AOC have been satisfied in accordance with this AOC, the EPA will provide formal notice to the Respondent and this AOC shall be deemed terminated. If the EPA determines that any requirement of this AOC has not been satisfied in accordance with this AOC, the EPA will notify the Respondent, provide a list of the deficiencies, and may require the Respondent to correct such deficiencies. If so required, the Respondent shall correct such deficiencies and shall submit a modified Final Report in accordance with the EPA notice. Failure by the Respondent to correct such deficiencies shall be a violation of this AOC.

VI. GENERAL PROVISIONS

33. Respondent's compliance with this AOC does not necessarily constitute compliance with compliance with the provisions of the CWA, 33 U.S.C. § 1251 et seq., its implementing regulations, or with Respondent's Pretreatment Permit. Respondent shall remain solely responsible for compliance with the terms of the CWA, its implementing regulations, this AOC and its Pretreatment Permit.

34. Nothing in this AOC shall constitute a waiver, suspension, or modification of the terms and conditions of Respondent's Pretreatment Permit, which remain in full force and effect.

35. Failure to comply with the requirements herein shall constitute a violation of this AOC and the CWA, and may subject Respondent to penalties as provided in Section 309(d) of the CWA, 33 U.S.C. § 1319(d).

36. This AOC shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any other federal, state, or local permit. Compliance with this AOC shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA.

37. Issuance of this AOC shall not be deemed as prohibiting, altering, or in any way limiting the ability of the EPA to pursue any other enforcement actions available to it under law. Such actions may include, without limitation, any administrative, civil, or criminal action to seek penalties, fines, injunctive, or other appropriate relief, or to initiate an action for imminent and substantial endangerment under the CWA or any other federal or state statute, regulation, or permit.

38. The EPA reserves all rights and remedies, legal and equitable, available to enforce any violation cited in this AOC and to enforce this AOC.

39. Nothing in this AOC is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent, or other liability resulting from violations that were not alleged in this AOC.

40. This AOC applies to and is binding upon Respondent and its officers, directors, employees, agents, successors, and assigns.

41. Any change in the legal status of Respondent, including but not limited to any transfer of assets of real or personal property, shall not alter Respondent's responsibilities under this AOC.

42. Respondent admits to the jurisdictional allegations set forth within this AOC. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which Respondent may have with respect to any issue of fact or law set forth in this AOC, including, but not limited to any right of judicial review of the AOC under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

43. Each party shall bear its own costs and attorney's fees in connection with the resolved by this AOC. Pursuant to Section 309(a)(4) of the CWA, 33 U.S.C. § 1319(a)(4), the sent a copy of this AOC to the State of Tennessee.

44. Each undersigned representative of the parties to this AOC certifies that he or she is fully authorized to enter into the terms and conditions of this AOC and to execute and legally bind that party to it.

VII. EFFECTIVE DATE

45. This AOC shall become effective upon the Respondent's receipt of the fully executed AOC.

IT IS SO ORDERED AND AGREED TO,

FOR THE CITY OF SPRINGFIELD, TENNESSEE:

The Honorable Billy Paul Carneal
Mayor
City of Springfield, Tennessee

Date: _____

**FOR THE U.S. ENVIRONMENTAL
PROTECTION AGENCY**

James D. Giattina
Director
Water Protection Division

Date: _____